

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

MAIN STREET AMERICA ASSURANCE COMPANY :  
:  
Vs. : C.A. NO.:  
:  
DAVID KEACH, KEACH FRAMING, INC., :  
DAVID CESARIO and LEANN CESARIO :  
:

COMPLAINT FOR DECLARATORY JUDGMENT

1. The Plaintiff, Main Street America Assurance Company is a foreign corporation with a principal place of business in Jacksonville, Florida.
2. David Keach is a resident of Exeter, Rhode Island.
3. Keach Framing, Inc., is a Rhode Island corporation with a principal place of business in Exeter, Rhode Island.
4. Upon information and belief David Cesario and Leann Cesario ("the Cesario's") are residents of North Kingstown, Rhode Island.
5. On or about February 6, 2014 Keach Framing, Inc. and/or David Keach entered into a contract with Contemporary Building, Inc., to perform certain construction work at the premises owned by the Cesario's at 187 Charlotte Drive, Warwick, Rhode Island (hereinafter referred to as "the project").
6. A Complaint has been filed by the Cesario's against various parties including Keach Framing, Inc. A copy of the Fourth Amended Complaint is hereunto annexed as Exhibit A.

7. The aforementioned Complaint alleges that Keach Framing, Inc., performed work in an unskillful and unworkmanlike manner and caused property damage to the aforementioned premises.

8. At the time of the incident giving rise to the Complaint brought by the Cesario's, David Keach and Keach Framing, Inc., were insured under a policy of insurance issued by Main Street America Assurance Company to David Keach and/or Keach Framing, Inc.

9. The policy issued by Main Street America Assurance Company to David Keach and/or Keach Framing, Inc., contained certain policy exclusions commonly known as Business Risk Exclusions which provide as follows:

## SECTION II – LIABILITY

### B. Exclusions

#### 1. Applicable to Business Liability Coverage

This insurance does not apply to:

##### k. Damage to Property

“Property Damage” to:

- (4) Personal property in the care, custody or control of the insured;
- (5) That particular part of real property on which you or any contractor or subcontractor working directly or indirectly on your behalf is performing operations, if the “property damage” arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because “your work” was incorrectly performed on it.

##### l. Damage to Your Product

“Property damage” to “your product” arising out of it or any part of it.

##### m. Damage to Your Work

“Property damage” to “your work” arising out of it or any part of it and included in the “products – completed operations hazard”. This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

10. David Keach and/or Keach Framing, Inc., have demanded that Main Street America Assurance Company provide a defense and indemnify them in connection with the Complaint brought by the Cesario's.

11. The policy of insurance issued by Main Street America Assurance Company to David Keach and/or Keach Framing, Inc., excludes coverage for this loss.

WHEREFORE, Main Street America Assurance Company prays that this Court declare the rights, duties, status and obligations of the parties as follows:

a. That an Order enter that Main Street America Assurance Company is not liable to indemnify or defend David Keach and/or Keach Framing, Inc., as to the Complaint brought by the Cesario's.

b. That an Order enter that Main Street America Assurance Company has no obligation to satisfy any judgment and/or to reimburse David Keach and/or Keach Framing, Inc., for any settlement paid by David Keach and/or Keach Framing, Inc., or any settlement paid by either of them in connection with the Complaint brought by the Cesario's.

c. That an Order enter declaring that the aforementioned exclusions are applicable to this loss; and such other and further relief as this Court deems just and proper.

Plaintiff,  
Main Street America Assurance Company,  
By Its Attorneys,

/s/ C. Russell Bengtson  
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